



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/814,969

03/31/2004

Sergey M. Shevchenko

7759

8693

49459

7590

06/05/2007

NALCO COMPANY

1601 W. DIEHL ROAD

NAPERVILLE, IL 60563-1198

EXAMINER

WU, IVES J

ART UNIT

PAPER NUMBER

1724

MAIL DATE

DELIVERY MODE

06/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/814,969

Applicant(s)

SHEVCHENKO ET AL.

Examiner

Ives Wu

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/21/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-24 is/are allowed.
- 6) ☐ Claim(s) 14, 16-18 is/are rejected.
- 7) ☒ Claim(s) 15, 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- (1). Applicants' Amendments and Remarks filed on 5/21/2007 have been received. Claims 14 and 15 are amended. Claims 1-13 were cancelled previously. The 112 1st, 2nd rejections for claims 14 -19 in prior Office Action dated 02/21/2007. A new ground of rejection for claims 14-19 is introduced herein.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

- (2). **Claims 14, 16, 18** are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Baehr et al (US04880566).

As to the water content in the composition of **independent claim 14**, Baehr et al (US004880566) disclose as cited: Based on the quantities of aqueous 35 wt % hydrogen peroxide solution used, the stabilizer mixtures according to the invention are used in concentrations of from 2 to 25 % active substance, Col. 3, line 4-8. In other words, the water content is calculated and ranged from 40 % to 63 % wt.

As to the polyacrylic acid content in the composition of **independent claim 14**, Baehr et al (US004880566) disclose as cited: From 1 to 5 wt % of component B which is polyacrylic acid, Col. 2, line 32.

As to the diethylenetriaminepentakis(methyl)phosphonic acid, its salt content in the composition of **independent claim 14**, Baehr et al (US004880566) disclose as cited: Component C: polyamine- and/or amine polyphosphonic acid acids, Col. 2, line 25-26; Particularly suitable polyamide and/or amine polyphosphonic acids, if desired in the form of their alkali metal and/or ammonium salts, are diethylenetriamine penta-(methylenephosphonic acid) DTPMP, Col. 2, line 44-48; from 2 to 20 wt % of component (c), Col. 2, line 32-33.

As to inert compound content in the composition of **independent claim 14** and **claim 18**, Baehr et al (US004880566) disclose 5 g sodium persulfate in example 1 & 2, its content is 2 wt% and 4 wt%, Col. 3-4.

As to base for pH adjustment in the composition in **independent claim 14**, Baehr et al (US04880566) disclose the partially neutralized form of polyacrylic acid. Baehr et al **do not teach** the base in the composition. However, the neutralized form of polyacrylic acid is reaction product of polyacrylic acid and base with water produced. Moreover, the base in the composition of applicants will react with polyacrylic acid to form neutralized salt form of polyacrylic acid and water also evidenced in the teaching of Applicants' Specification (page 12, line 16-17). Therefore, it would be obvious that the base is inherently possessed in the aqueous composition of Baehr et al as the neutralized salt form of polyacrylic acid is included.

As to the limitation of **claim 16**, Baehr et al (US004880566) disclose as cited: Particularly suitable polyamide and/or amine polyphosphonic acids, if desired in the form of their alkali metal and/or ammonium salts, are diethylenetriamine penta-(methylenephosphonic acid) DTPMP, Col. 2, line 44-48; It indicates sodium diethylenetriaminepentakis(methylene) phosphonate is one of their alkali metal form.

Claim Rejections - 35 USC § 103

(3). The text of those sections of Title 35, U. S. Code not include in this Office Action can be found in the prior Office Action dated June 24, 2005.

(4). **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over Baehr et al (US004880566) in view of Christiansen (US004614646) for the same rationale recited on page 6-7 in the prior Office Action dated June 24, 2005.

Allowable Subject Matter

Claims 15 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20-24 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 14-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ives Wu whose telephone number is 571-272-4245. The examiner can normally be reached on 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Ives Wu

Application/Control Number: 10/814,969

Page 5

Art Unit: 1724

Art Unit: 1724

Date: May 31, 2007

DUANE SMITH
PRIMARY EXAMINER

D. Smith
5-31-07